

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

| | | |
|-------------------------------|---|--------------------------------|
| MICHAEL FITZGERALD and WORLD |) | |
| WISDOM, INC., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Case No. 1:21-cv-01822-TWP-TAB |
| |) | |
| MAUDE MURRAY and BEACON BOOKS |) | |
| AND MEDIA, LTD, |) | |
| |) | |
| Defendants. |) | |

**ORDER STRIKING DEFENDANT BEACON BOOKS MEDIA LTD's OBJECTION
AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

This matter is before the Court on Defendant, Beacon Books And Media, LTD's ("Beacon Books") Objection to the Magistrate Judge's Report and Recommendation, (Dkt. 42), and Plaintiffs Michael Fitzgerald's ("Fitzgerald") and World Wisdom, Inc.'s ("World Wisdom") (collectively, "Plaintiffs") Motion Requesting Entry of Default Against Beacon Books and Media Ltd., (Dkt. 11). That Motion was referred to the Magistrate Judge for a Report and Recommendation, (Dkt. 29). On September 14, 2021, the Magistrate Judge submitted a Report and Recommendation that the Motion for Entry of Default be granted, (Dkt. 37). For the reasons stated below, the Court **strikes** the Objection and **adopts** the Magistrate Judge's Report and Recommendation.

I. DISCUSSION

A district court may assign dispositive matters to a magistrate judge, in which case the magistrate judge may submit to the district judge only a report and recommended disposition, including any findings of fact. 28 U.S.C. § 636(b)(1)(B) (2012); Fed. R. Civ. P. 72(b)(1). *See also Schur v. L.A. Weight Loss Ctrs., Inc.*, 577 F.3d 752, 760 (7th Cir. 2009). The magistrate

judge's recommendation on a dispositive matter is not a final order, and the district judge makes the ultimate decision to "accept, reject, or modify" the findings and recommendations, and the district court need not accept any portion as binding. 28 U.S.C. § 636(b)(1) (2012); Fed. R. Civ. P. 72(b)(3). *See also Schur*, 577 F.3d at 760-61.

After a magistrate judge makes a report and recommendation, either party may object within fourteen days of being served with a copy of the same, and the district court is required to review those objections *de novo*, determining for itself whether the magistrate judge's decisions as to those issues are supported by substantial evidence or were the result of an error of law. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

The Magistrate Judge issued the following Report and Recommendation:

On July 24, 2021, Beacon Books filed what purported to be a motion to dismiss. [Filing No. 8.] On August 8, 2021, the Court granted Plaintiffs' motion to strike this purported motion to dismiss because it was improperly filed by a corporation unrepresented by legal counsel. [Filing No. 15.]

Accordingly, Beacon Books failed to respond to Plaintiffs' complaint. Therefore, pursuant to Fed. R. Civ. P. 55(a), the Clerk should enter default against Defendant Beacon Books.

(Dkt. 37). This recommendation is legally sound and there are no errors of law. The Court has been liberal in allowing Beacon Books time to retain counsel, however to date, no attorney has entered an appearance on their behalf. No one has properly responded to Plaintiff's complaint on Beacon Books behalf. Plaintiffs allege that Beacon Books failed to answer or otherwise properly respond to the Complaint within 21 days of service, thus they are entitled to a Clerk's default.

Pro se litigant Mohammed Raza-ul-haq Jamil Chishti filed a timely Objection, (Dkt. 42) to the Report and Recommendation stating that he "is still in the process of trying to obtain legal representation even on limited appearance basis". *Id.* However, because a *pro se* litigant cannot represent a corporation, the Objection must be **stricken**.

Even if the Objection were considered, it would be overruled because there are no errors in the Magistrate Judge's ruling. Accordingly, the Magistrate Judges Report and Recommendation is **adopted** and Motion for Clerk's Default is **granted**.

II. CONCLUSION

For the reasons stated herein, Beacon Books and Media, LTD's Objection to the Report and Recommendation, Dkt. [42], is **STRIKEN** as improperly filed. The Court **ADOPTS** the Magistrate Judge's recommendation, Dkt. [37], and **GRANTS** the Plaintiffs' Motion For Entry of Default Against Defendant Beacon Books And Media, LTD., Dkt. [11]. The Clerk shall enter a default pursuant to Rule 55(a).

SO ORDERED.

Date: 10/1/2021



Hon. Tanya Walton Pratt, Chief Judge
United States District Court
Southern District of Indiana

DISTRIBUTION:

Elizabeth Anne Charles
FAEGRE DRINKER BIDDLE & REATH LLP (Indianapolis)
elizabeth.charles@faegredrinker.com

Jason Rauch
FAEGRE DRINKER BIDDLE & REATH LLP (Indianapolis)
jason.rauch@faegredrinker.com

Louis T. Perry
FAEGRE DRINKER BIDDLE & REATH LLP (Indianapolis)
louis.perry@faegredrinker.com

Maude Murray
c/o Dilawar khan, Son of Abdul Qayyum
Mandroch Khurd
P.O. Nawan Shehr
Abbottabad KPK
Pakistan
00 92 313 595 0323